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United States Attorney

E-filing

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

RS

SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,

CR No. 10 0642

Plaintiff,

v.

CHRISTOPHER NAPOLI,
DANIEL JOHNSON,
SALVATORE LAMORTE,
STEVEN PAUL,
JEFFREY ENTEL,
a/k/a "Yeury Amarante," "Jerry
Amarante,"
JOSEPH CAROZZA,
JEFFREY HERHOLZ,
DARRELL CREQUE,
MICHAEL ARNOLD,
a/k/a "Mike Johnston,"
DIEGO PODOLSKY PAES,
a/k/a "Juan Montes," and
DINO ANTONIONI,

Defendants.

VIOLATIONS:

21 U.S.C. § 846 – Conspiracy to Possess
with Intent to Distribute and to Distribute
Controlled Substances [3 Counts];

21 U.S.C. § 841(a)(1) – Possession with
Intent to Distribute and Distribution of
Controlled Substances [5 Counts];

21 U.S.C. § 846 – Attempted Possession
with Intent to Distribute Controlled
Substances [1 Count]

18 U.S.C. § 1956(h) - Conspiracy to
Launder Money [3 Counts];

18 U.S.C. § 1956(a)(2)(A) - International
Money Laundering [1 Count]

21 U.S.C. § 853 - Criminal Forfeiture (Drug
Trafficking) [3 Counts]

18 U.S.C. § 982 - Criminal Forfeiture
(Money Laundering) [3 Counts]

SAN FRANCISCO VENUE

INDICTMENT

The Grand Jury charges:

INDICTMENT

INTRODUCTION

At all times relevant to this Indictment, unless otherwise indicated:

I. Safescripts Online Conspiracy

1. Defendants Christopher NAPOLI and Daniel JOHNSON, together with others, created and operated a number of Internet pharmacy websites, including but not limited to SafescriptsOnline.com and PharmacyUSAMeds.com (collectively, "Safescripts Online"). Through those websites, NAPOLI and the other co-conspirators offered to sell to the public various drugs, including controlled substances such as: (a) phendimetrazine, a Schedule III controlled substance; (b) diazepam (also known as Valium), a Schedule IV controlled substance; (c) phentermine, a Schedule IV controlled substance; and (d) clonazepam, a Schedule IV controlled substance (collectively, the "Controlled Substances"). NAPOLI and his co-conspirators permitted customers to provide their credit card information and required them to complete brief on-line questionnaires before ordering specific drugs, including the Controlled Substances. Customers were not required to submit a valid form of identification or a valid prescription for the Controlled Substances they ordered.

2. Defendant JOSEPH CAROZZA was a medical doctor licensed only in the State of New York. As part of the conspiracy, several doctors, including CAROZZA, approved customer orders for controlled substances for Safescripts Online that were not for a legitimate medical purpose and when the doctor was not acting in the usual course of his or her professional practice.

3. The completed on-line questionnaires were made available by Safescripts Online to, among others, defendant CAROZZA, who purported to review the on-line questionnaires and approve a prescription for the Controlled Substances requested by the customers. The on-line questionnaires asked the customers to briefly describe their medical history. At no time during the questionnaire review process did defendant CAROZZA or any other approving physician physically examine or obtain a complete medical history from the customers. Nor did CAROZZA or any other approving physician make any effort to confirm the accuracy of the information provided by the customers in the on-line questionnaires. Rather, after purportedly

1 reviewing only the customers' on-line questionnaires, defendant CAROZZA or another
2 approving physician authorized a purported prescription for the Controlled Substances requested
3 by the customers.

4 4. After defendant CAROZZA or another approving physician authorized a
5 purported prescription for the Controlled Substances, owners and employees of various
6 fulfillment pharmacies in various locations across the United States accessed the Safescripts
7 Online computer program to locate customer orders for which CAROZZA or another approving
8 physician purportedly authorized prescriptions. Those fulfillment pharmacies then filled and
9 shipped the Controlled Substances to the customers.

10 5. Defendant Salvatore LAMORTE acted as a consultant to Internet and fulfillment
11 pharmacies, including Safescripts Online. In this role, defendant LAMORTE assisted Safescripts
12 Online by locating and negotiating with fulfillment pharmacies that agreed to fill drug orders
13 from Safescripts Online. Defendant LAMORTE also assisted fulfillment pharmacies that filled
14 for Safescripts Online by providing technical and practical advice, training and assistance,
15 thereby allowing the fulfillment pharmacies to operate more efficiently and fill more orders for
16 Safescripts Online. LAMORTE was paid a commission for his services.

17 6. Defendant Steven PAUL acted as an agent for credit card processors and assisted
18 Safescripts Online with obtaining credit card processing services. NAPOLI and his co-
19 conspirators caused the credit card processors to charge sales of the Controlled Substances to the
20 credit cards provided by the customers. The customers' funds were transferred from accounts in
21 the United States to a bank in Israel. Proceeds from the credit card sales were wire transferred
22 from the bank in Israel to bank accounts controlled by defendant NAPOLI in the United States.

23 7. Defendant Jeffrey HERHOLZ owned and operated Kwic Fill, Inc. ("Kwic Fill"), a
24 fulfillment pharmacy that filled drug orders for Safescripts Online as well as other Internet
25 pharmacies. Defendant Darrell CREQUE acted as the pharmacist for Kwic Fill and filled orders
26 for controlled substances that were not supported by valid prescriptions.

27 8. Daniel JOHNSON worked at Internet Commerce Corporation (ICC), also known
28 as NTS. JOHNSON created, managed, maintained, and administered the database and computer

1 programs that supported Safescripts Online. JOHNSON also operated affiliate marketing
2 websites that conducted marketing for and directed customers to Safescripts Online.

3 9. Defendant NAPOLI also owned and operated Discount U.S. Drugs, a fulfillment
4 pharmacy that filled drug orders for Safescripts Online.

5 10. The Controlled Substances were shipped to the customers via Federal Express,
6 United Parcel Service, or DHL under various account numbers held and used by defendant
7 NAPOLI and others.

8 11. Defendant NAPOLI collected the proceeds of the sale of the Controlled
9 Substances and paid defendants JOHNSON, LAMORTE, PAUL, ENTEL, HERHOLZ,
10 CAROZZA, and others for their participation in the conspiracy.

11 12. As part of the conspiracy, from September 30, 2005, to approximately December
12 of 2006, over \$22 million was transferred from credit card processing accounts to bank accounts
13 controlled by NAPOLI.

14 13. As part of the conspiracy, defendant NAPOLI's online pharmacy Safescripts
15 Online distributed alprazolam, a Schedule IV controlled substance to K.V., who caused an
16 accident that killed her six-year-old daughter while she was under the influence of that controlled
17 substance. The order of alprazolam was approved by CAROZZA and filled by CREQUE at
18 HERHOLZ's pharmacy Kwic Fill.

19 II. Pitcairn Conspiracy

20 14. Defendants Michael ARNOLD and Diego Podolsky PAES, together with others,
21 created and operated a number of Internet pharmacy websites, including but not limited to
22 pitcairngroup.com, EZDietPills.net, Ezprescription.net, DoctorRefill.net, PharmacyBliss.net, and
23 Echorex.com (collectively, "Pitcairn"). Through those websites, ARNOLD, PAES, and the other
24 co-conspirators offered to sell to the public various drugs, including controlled substances such
25 as: (a) phendimetrazine, a Schedule III controlled substance; (b) diazepam (also known as
26 Valium), a Schedule IV controlled substance; (c) phentermine, a Schedule IV controlled
27 substance; and (d) clonazepam, a Schedule IV controlled substance (collectively, the "Controlled
28 Substances"). ARNOLD, PAES and their co-conspirators permitted customers to provide their

1 credit card information and required them to complete brief on-line questionnaires before
2 ordering specific drugs, including the Controlled Substances. Customers were not required to
3 submit a valid form of identification or a valid prescription for the Controlled Substances they
4 ordered.

5 15. Unindicted co-conspirator Alfred Valdivieso was a medical doctor licensed only
6 in the Commonwealth of Puerto Rico. As part of the conspiracy, several doctors, including
7 Valdivieso, approved customer orders for controlled substances that were not for a legitimate
8 medical purpose and when the doctor was not acting in the usual course of his or her professional
9 practice.

10 16. The completed on-line questionnaires were made available through Pitcairn to,
11 among others, unindicted co-conspirator Alfredo Valdivieso, who purported to review the on-line
12 questionnaires and approve a prescription for the Controlled Substances requested by the
13 customers. The on-line questionnaires asked the customers to briefly describe their medical
14 history. At no time during the questionnaire review process did Valdivieso or any other
15 approving physician physically examine and obtain a complete medical history from the
16 customers. Nor did Valdivieso or any other approving physician make any effort to confirm the
17 accuracy of the information provided by the customers in the on-line questionnaires. Rather,
18 after purportedly reviewing only the customers' on-line questionnaires, unindicted co-conspirator
19 Valdivieso or another approving physician authorized a purported prescription for the Controlled
20 Substances requested by the customers.

21 17. After Valdivieso or another approving physician authorized a purported
22 prescription for the Controlled Substances, owners and employees of various fulfillment
23 pharmacies in various locations across the United States accessed the Pitcairn computer program
24 in order to locate customer orders for which Valdivieso or another approving physician
25 purportedly authorized prescriptions. Those fulfillment pharmacies then filled and shipped the
26 Controlled Substances to the customers.

27 18. Defendant Salvatore LAMORTE acted as a consultant to Internet and fulfillment
28 pharmacies, including Pitcairn. In this role, defendant LAMORTE assisted Pitcairn by locating

1 and negotiating with fulfillment pharmacies that agreed to fill drug orders from Pitcairn.
2 Defendant LAMORTE also assisted fulfillment pharmacies that filled for Pitcairn by providing
3 technical and practical advice, training and assistance, thereby allowing the fulfillment
4 pharmacies to operate more efficiently and fill more orders for Pitcairn and other online
5 pharmacies. LAMORTE was paid a commission for his services.

6 19. Defendant Jeffrey HERHOLZ owned and operated Kwic Fill, a fulfillment
7 pharmacy that filled drug orders for Pitcairn as well as other Internet pharmacies. Defendant
8 Darrell CREQUE acted as the pharmacist for Kwic Fill and filled orders for controlled
9 substances that were not supported by valid prescriptions.

10 20. The Controlled Substances were shipped to the customers via Federal Express or
11 United Parcel Service under various account numbers held and used by defendants ARNOLD,
12 PAES, and others.

13 21. Defendants PAES and ARNOLD obtained credit card processing services from
14 Optimal Payments. ARNOLD, PAES, and their co-conspirators caused the credit card
15 processors to charge sales of the Controlled Substances to the credit cards provided by the
16 customers. The customers' funds were transferred from accounts in the United States to a bank
17 in Canada. Proceeds from the credit card sales were wire transferred from the bank in Canada
18 through a corresponding account in the United States and deposited into bank accounts
19 controlled by defendants ARNOLD and PAES in foreign countries. Over \$55 million in
20 proceeds from the sale of Controlled Substances was transferred from Optimal Payments to
21 accounts controlled by ARNOLD and PAES.

22 22. Defendants ARNOLD and PAES collected the proceeds of the sale of the
23 Controlled Substances and paid defendant HERHOLZ, Valdivieso and others for their roles in
24 the conspiracy.

25 23. On November 8, 2005, J.T. died as a result of overdosing on controlled substances
26 ordered from online pharmacies including Pitcairn, owned and operated by ARNOLD and PAES.

27 III. United Mail Pharmacy Services / Pharmizon Conspiracy

28 24. Robert Smoley, together with others, created and operated a number of Internet

1 pharmacy websites, including but not limited to Myrxeasy.com, Universalrxonline.com,
2 Ezrxovernight.com, pills-delivered.com, and Urgentmeds.com (collectively, "Pharmizon").
3 Through those websites, Smoley and his co-conspirators offered to sell to the public various
4 drugs, including controlled substances such as: (a) phendimetrazine, a Schedule III controlled
5 substance; (b) diazepam (also known as Valium), a Schedule IV controlled substance; (c)
6 phentermine, a Schedule IV controlled substance; and (d) clonazepam, a Schedule IV controlled
7 substance (collectively, the "Controlled Substances"). Smoley and his co-conspirators permitted
8 customers to provide their credit card information and required them to complete brief on-line
9 questionnaires before ordering specific drugs, including the Controlled Substances. Customers
10 were not required to submit a valid form of identification or a valid prescription for the
11 Controlled Substances they ordered.

12 25. As part of the conspiracy, several doctors approved customer orders for controlled
13 substances that were not for a legitimate medical purpose and when the doctor was not acting in
14 the usual course of his or her professional practice.

15 26. The completed on-line questionnaires were made available through Pharmizon to
16 physicians who purported to review the on-line questionnaires and approve a prescription for the
17 Controlled Substances requested by the customers. The on-line questionnaires asked the
18 customers to briefly describe their medical history. At no time during the questionnaire review
19 process did any approving physician physically examine and obtain a complete medical history
20 from the customers. Nor did any approving physician make any effort to confirm the accuracy of
21 the information provided by the customers in the on-line questionnaires. Rather, after
22 purportedly reviewing only the customers' on-line questionnaires, the approving physician
23 authorized a purported prescription for the Controlled Substances requested by the customers.

24 27. After the approving physician authorized a purported prescription for the
25 Controlled Substances, owners and employees of the fulfillment pharmacy United Mail
26 Pharmacy Services (UMPS), as well as various other fulfillment pharmacies in various locations
27 across the United States, accessed Pharmizon in order to locate customer orders for which the
28 approving physician purportedly authorized prescriptions. UMPS or another fulfillment

1 pharmacy then filled and shipped the Controlled Substances to the customers.

2 28. Defendant ENTEL operated affiliate marketing websites, a call center, and the
3 Internet pharmacy ESolutions that used United Mail Pharmacy Services as a fulfillment
4 pharmacy.

5 29. Defendant Steven PAUL acted as an agent for credit card processors and assisted
6 Smoley with obtaining credit card processing services. Smoley and his co-conspirators caused
7 the credit card processors to charge sales of the Controlled Substances to the credit cards
8 provided by the customers. Proceeds from the credit card sales were wire transferred from the
9 bank in Israel to bank accounts controlled by Smoley in the United States. Over \$40 million in
10 proceeds from the sale of Controlled Substances were transferred to accounts controlled by
11 Smoley.

12 30. The Controlled Substances were shipped to the customers via Federal Express,
13 United Parcel Service, or DHL under various account numbers held and used by defendant
14 Smoley and others.

15 31. Defendant Smoley collected the proceeds of the sale of the Controlled Substances
16 and paid the doctors, pharmacies, and others for their roles in the conspiracy.

17
18 COUNT ONE: (Title 21, United States Code, Section 846)

19 (Safescripts Online Distribution Conspiracy)

20 32. The allegations in paragraphs 1 through 31 are realleged and incorporated as if
21 fully set forth in this paragraph.

22 33. Beginning at a time unknown to the grand jury but no later than November of
23 2004 and ending in or about December of 2006, both dates being approximate and inclusive,
24 within the Northern District of California, and elsewhere, defendants:

25 Christopher NAPOLI,
26 Daniel JOHNSON,
27 Salvatore LAMORTE,
28 Steven PAUL,
Jeffrey ENTEL,
Joseph CAROZZA,
Jeffrey HERHOLZ, and
Darrell CREQUE,

1 together with others known and unknown to the grand jury, conspired to distribute, and to
 2 possess with intent to distribute, outside the scope of professional practice and not for a
 3 legitimate medical purpose, one or more controlled substances, which offense involved
 4 substances containing (a) phendimetrazine, a Schedule III controlled substance; (b) diazepam, a
 5 Schedule IV controlled substance; (c) phentermine, a Schedule IV controlled substance; and (d)
 6 clonazepam, a Schedule IV controlled substance, in violation of Title 21, United States Code,
 7 Section 841(a)(1), all in violation of Title 21, United States Code, Sections 846, 841(b)(1)(D)
 8 and 841(b)(2).

9
 10 COUNT TWO: (Title 21, United States Code, Section 841(a)(1))

11 (Safescripts Online Distribution)

12 34. The allegations in paragraphs 1 through 33 are realleged and incorporated as if
 13 fully set forth in this paragraph.

14 35. On or about February 24, 2006, within the Northern District of California and
 15 elsewhere, defendants:

16 Christopher NAPOLI,
 17 Daniel JOHNSON,
 18 Salvatore LAMORTE,
 19 Joseph CAROZZA,
 20 Jeffrey HERHOLZ, and
 21 Darrell CREQUE,

22 together with others known and unknown to the grand jury, did knowingly and intentionally
 23 distribute, and possess with intent to distribute, outside the scope of professional practice and not
 24 for a legitimate medical purpose, one or more controlled substances, which offense involved a
 25 substance containing: phentermine, a Schedule IV controlled substance, in violation of Title 21,
 26 United States Code, Sections 841(a)(1) and (b)(2).

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1 COUNT THREE: (Title 18, United States Code, Section 1956(h))

2 (Safescrpts Online Money Laundering Conspiracy)

3 36. The allegations in paragraphs 1 through 35 are realleged and incorporated as if
4 fully set forth in this paragraph.

5 37. Beginning at a time unknown to the grand jury but no later than November of
6 2004 and ending in or about December of 2006, both dates being approximate and inclusive,
7 within the Northern District of California and elsewhere, defendants:

8 Christopher NAPOLI,
9 Daniel JOHNSON,
10 Salvatore LAMORTE,
11 Steven PAUL,
12 Jeffrey ENTEL,
13 Joseph CAROZZA, and
14 Jeffrey HERHOLZ,

15 together with others known and unknown to the grand jury, did knowingly and intentionally
16 conspire to transport, transmit, and transfer monetary instruments and funds from a place in the
17 United States to and through a place outside the United States, and to a place in the United States
18 from and through a place outside the United States, with the intent to promote the carrying on of
19 specified unlawful activity, to wit: unlawful distribution of controlled substances in violation of
20 Title 21, United States Code, Sections 841(a), 841(b) and 846, which conduct was in violation of
21 Title 18, United States Code, Section 1956(a)(2)(A), all in violation of Title 18, United States
22 Code, Section 1956(h).

23 CRIMINAL FORFEITURE ALLEGATIONS AS TO COUNTS ONE AND TWO

24 (Distribution Conspiracy and Distribution)

25 38. Upon conviction of the offenses alleged in Counts One and Two, the defendants

26 Christopher NAPOLI,
27 Daniel JOHNSON,
28 Salvatore LAMORTE,
Steven PAUL,
Jeffrey ENTEL,
Joseph CAROZZA,
Jeffrey HERHOLZ, and
Darrell CREQUE,

shall forfeit to the United States all right, title and interest in property constituting and derived from any proceeds defendant obtained, directly or indirectly, as a result of said violation, and any property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of the said violation, including but not limited to the following:

Defendant NAPOLI

- a. 1997 Lamborghini Diablo, VIN ZA9RU37P6VLA12636;
- b. 2006 Porsche Cayenne Turbo, VIN WP1AC29P96LA91296;
- c. \$8,692.42 in funds seized from a Commerce Bank account held in the the name of PSA, LLC;
- d. \$6,314.76 in funds seized from a Commerce Bank Account held in the the name of Pharmacy USA, LLC;
- e. \$1,076,636.89 in funds seized from a TD Ameritrade Account held in the name of Christopher Napoli;
- f. \$87,680.65 in funds seized from Ohio National Life Insurance Corporation, Acct # 1574294;
- g. \$29,981.40 in funds seized from Bank of Nevada Acct # xxxx9200 held in the name of ZZR Enterprises, Inc.;
- h. \$40,000 in funds Seized from Compass Bank, MoneyMarket Acct # XXXX3452;
- i. \$50,000 in funds Seized from Pershing LLC, Brokerage Acct #XXXXXX5731;
- j. U.S. Treasury Check in the amount of \$136,497.02.

Defendant LAMORTE

- a. 2006 Maserati Quattroporte;
- b. \$14,225 in funds seized from Commerce Bank Acct # xxxxxx5976;
- c. \$743,918.10 in funds seized from Commerce Bank Acct # xxxxxx4167;
- d. \$5,232.15 in funds seized from Commerce Bank Acct # xxxxxx5976;
- e. \$63,989.45 in funds seized from Wachovia Bank Acct # xxxxxxxxxx2442.

If, as a result of any act or omission of the defendant, any of said property:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third person;

- c. has been placed beyond the jurisdiction of the Court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be divided without difficulty;

any and all interest defendant has in any other property (not to exceed the value of the forfeitable property) shall be forfeited to the United States.

All in violation of Title 21, United States Code, Sections 853(a)(1) and (2), (p), and Rule 32.2 of the Federal Rules of Criminal Procedure.

CRIMINAL FORFEITURE ALLEGATION AS TO COUNT THREE

(Money Laundering Conspiracy)

39. Upon conviction of the offense alleged in Count Three, the defendants

Christopher NAPOLI,
Daniel JOHNSON,
Salvatore LAMORTE,
Steven PAUL,
Jeffrey ENTEL,
Dr. Joseph CAROZZA, and
Jeffrey HERHOLZ,

shall forfeit to the United States all right, title and interest in any property real and personal involved in such offense, and any property traceable to such property, including but not limited to any property constituting and derived from any proceeds defendant obtained, directly or indirectly, as a result of the underlying specified unlawful activity, and any property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of the said violation, including but not limited to the following:

Defendant NAPOLI

- a. 1997 Lamborghini Diablo, VIN ZA9RU37P6VLA12636;
- b. 2006 Porsche Cayenne Turbo, VIN WP1AC29P96LA91296;
- c. \$8,692.42 in funds seized from a Commerce Bank Account held in the name of PSA, LLC;
- d. \$6,314.76 in funds seized from a Commerce Bank Account Held in the name of Pharmacy USA, LLC;

- e. \$1,076,636.89 in funds seized from a TD Ameritrade Account held in the name of Christopher Napoli;
- f. \$87,680.65 in funds seized from Ohio National Life Insurance Corporation, Acct # 1574294;
- g. \$29,981.40 in funds seized from Bank of Nevada Acct # xxxx9200 held in the name of ZZR Enterprises, Inc.;
- h. \$40,000 in funds seized from Compass Bank, MoneyMarket Acct # XXXX3452;
- i. \$50,000 in funds seized from Pershing LLC, Brokerage Acct #XXXXXX5731;
- j. U.S. Treasury Check in the amount of \$136,497.02.

Defendant LAMORTE

- a. 2006 Maserati Quattroporte;
- b. \$14,225 in funds seized from Commerce Bank Acct # xxxxxx5976;
- c. \$743,918.10 in funds seized from Commerce Bank Acct # xxxxxx4167;
- d. \$5,232.15 in funds seized from Commerce Bank Acct # xxxxxx5976;
- e. \$63,989.45 in funds seized from Wachovia Bank Acct # xxxxxxxxxx2442.

If, as a result of any act or omission of the defendant, any of said property:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third person;
- c. has been placed beyond the jurisdiction of the Court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be divided without difficulty;

any and all interest defendant has in any other property (not to exceed the value of the forfeitable property) shall be forfeited to the United States.

All in violation of Title 18, United States Code, Section 982, and Rule 32.2 of the Federal Rules of Criminal Procedure.

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COUNT FOUR: (Title 21, United States Code, Section 846)

(Pitcairn Distribution Conspiracy)

40. The allegations in paragraphs 1 through 31 are realleged and incorporated as if fully set forth in this paragraph.

41. Beginning at a time unknown to the grand jury, but no later than May of 2003 and ending in or about April of 2007, both dates being approximate and inclusive, within the Northern District of California, and elsewhere, defendants:

Salvatore LAMORTE,
Michael ARNOLD,
Diego Podolsky PAES,
Jeffrey HERHOLZ, and
Darrell CREQUE,

together with others known and unknown to the grand jury, conspired to distribute, and to possess with intent to distribute, outside the scope of professional practice and not for a legitimate medical purpose, one or more controlled substances, which offense involved substances containing (a) phendimetrazine, a Schedule III controlled substance; (b) diazepam, a Schedule IV controlled substance; (c) phentermine, a Schedule IV controlled substance; and (d) clonazepam, a Schedule IV controlled substance, in violation of Title 21, United States Code, Section 841(a)(1), all in violation of Title 21, United States Code, Sections 846, 841(b)(1)(D) and 841(b)(2).

COUNT FIVE: (Title 21, United States Code, Section 841(a)(1))

(Pitcairn Distribution)

42. The allegations in paragraphs 1 through 31 and 40 through 41 are realleged and incorporated as if fully set forth in this paragraph.

43. On or about November 18, 2005, within the Northern District of California and elsewhere, defendants:

Salvatore LAMORTE,
Michael ARNOLD, and
Diego Podolsky PAES,

together with others, did knowingly and intentionally distribute, and possess with intent to

1 distribute, outside the scope of professional practice and not for a legitimate medical purpose,
 2 one or more controlled substances, which offense involved a substance containing: phentermine,
 3 a Schedule IV controlled substance, in violation of Title 21, United States Code, Sections
 4 841(a)(1) and (b)(2).

5
 6 COUNT SIX: (Title 21, United States Code, Section 841(a)(1))

7 (Pitcairn Distribution)

8 44. The allegations in paragraphs 1 through 31 and 40 through 43 are realleged and
 9 incorporated as if fully set forth in this paragraph.

10 45. On or about December 3, 2005, within the Northern District of California and
 11 elsewhere, defendants:

12 Salvatore LAMORTE,
 13 Michael ARNOLD, and
 14 Diego Podolsky PAES,

15 together with others, did knowingly and intentionally distribute, and possess with intent to
 16 distribute, outside the scope of professional practice and not for a legitimate medical purpose,
 17 one or more controlled substances, which offense involved a substance containing: phentermine,
 18 a Schedule IV controlled substance, in violation of Title 21, United States Code, Sections
 19 841(a)(1) and (b)(2).

20 COUNT SEVEN: (Title 21, United States Code, Section 841(a)(1))

21 (Pitcairn Distribution)

22 46. The allegations in paragraphs 1 through 31 and 40 through 45 are realleged and
 23 incorporated as if fully set forth in this paragraph.

24 47. On or about December 3, 2005, within the Northern District of California and
 25 elsewhere, defendants:

26 Salvatore LAMORTE,
 27 Michael ARNOLD, and
 28 Diego Podolsky PAES,

together with others, did knowingly and intentionally distribute, and possess with intent to

1 distribute, outside the scope of professional practice and not for a legitimate medical purpose,
2 one or more controlled substances, which offense involved a substance containing: phentermine,
3 a Schedule IV controlled substance, in violation of Title 21, United States Code, Sections
4 841(a)(1) and (b)(2).

5
6 COUNT EIGHT: (Title 21, United States Code, Section 841(a)(1))

7 (Pitcairn Distribution)

8 48. The allegations in paragraphs 1 through 31 and 40 through 47 are realleged and
9 incorporated as if fully set forth in this paragraph.

10 49. On or about March 2, 2006, within the Northern District of California and
11 elsewhere, defendants:

12 Salvatore LAMORTE,
13 Michael ARNOLD, and
Diego Podolsky PAES,

14 together with others, did knowingly and intentionally distribute, and possess with intent to
15 distribute, outside the scope of professional practice and not for a legitimate medical purpose,
16 one or more controlled substances, which offense involved a substance containing: phentermine,
17 a Schedule IV controlled substance, in violation of Title 21, United States Code, Sections
18 841(a)(1) and (b)(2).

19
20 COUNT NINE: (Title 18, United States Code, Section 1956(h))

21 (Pitcairn Money Laundering Conspiracy)

22 50. The allegations in paragraphs 1 through 31 and 40 through 49 are realleged and
23 incorporated as if fully set forth in this paragraph.

24 51. Beginning at a time unknown to the grand jury, but no later than May of 2003 and
25 ending in or about August of 2007, both dates being approximate and inclusive, within the
26 Northern District of California and elsewhere, defendants:

27 Salvatore LAMORTE,
28 Michael ARNOLD,
Diego Podolsky PAES, and
Jeffrey HERHOLZ,

together with others known and unknown to the grand jury, did knowingly and intentionally conspire to transport, transmit, and transfer monetary instruments and funds from a place in the United States to and through a place outside the United States, and to a place in the United States from and through a place outside the United States, with the intent to promote the carrying on of specified unlawful activity, to wit: unlawful distribution of controlled substances in violation of Title 21, United States Code, Sections 841(a), 841(b) and 846, which conduct was in violation of Title 18, United States Code, Section 1956(a)(2)(A), all in violation of Title 18, United States Code, Section 1956(h).

CRIMINAL FORFEITURE ALLEGATIONS AS TO COUNTS FOUR THROUGH EIGHT

(Distribution Conspiracy and Distribution)

52. Upon conviction of the offenses alleged in Counts Four through Eight, the defendants:

Salvatore LAMORTE,
Michael ARNOLD,
Diego Podolsky PAES,
Jeffrey HERHÖLZ, and
Darrell CREQUE,

shall forfeit to the United States all right, title and interest in property constituting and derived from any proceeds defendant obtained, directly or indirectly, as a result of said violation, and any property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of the said violation, including but not limited to the following:

Defendant LAMORTE

- a. 2006 Maserati Quattroporte;
- b. \$14,225 in funds seized from Commerce Bank Acct # xxxxxx5976;
- c. \$743,918.10 in funds seized from Commerce Bank Acct # xxxxxx4167;
- d. \$5,232.15 in funds seized from Commerce Bank Acct # xxxxxx5976;
- e. \$63,989.45 in funds seized from Wachovia Bank Acct # xxxxxxxxxx2442.

Defendant ARNOLD

- a. Real Property located at 205 Se Spanish Trail, Boca Raton, Florida.

1 If, as a result of any act or omission of the defendant, any of said property:

- 2 a. cannot be located upon the exercise of due diligence;
- 3 b. has been transferred or sold to, or deposited with, a third person;
- 4 c. has been placed beyond the jurisdiction of the Court;
- 5 d. has been substantially diminished in value; or
- 6 e. has been commingled with other property which cannot be divided without difficulty;
- 7

8 any and all interest defendant has in any other property (not to exceed the value of the forfeitable
9 property) shall be forfeited to the United States.

10 All in violation of Title 21, United States Code, Sections 853(a)(1) and (2), (p), and Rule
11 32.2 of the Federal Rules of Criminal Procedure.

12
13 CRIMINAL FORFEITURE ALLEGATION AS TO COUNT NINE

14 (Money Laundering Conspiracy)

15 53. Upon conviction of the offense alleged in Count Nine, the defendants

16 Salvatore LAMORTE,
17 Michael ARNOLD,
18 Diego Podolsky PAES, and
Jeffrey HERHOLZ,

19 shall forfeit to the United States all right, title and interest in any property real and personal
20 involved in such offense, and any property traceable to such property, including but not limited to
21 any property constituting and derived from any proceeds defendant obtained, directly or
22 indirectly, as a result of the underlying specified unlawful activity, and any property used, or
23 intended to be used, in any manner or part, to commit, or to facilitate the commission of the said
24 violation, including but not limited to the following:

25
26 Defendant LAMORTE

- 27 a. 2006 Maserati Quattroporte;
- 28 b. \$14,225 in funds seized from Commerce Bank Acct # xxxxxx5976;

- c. \$743,918.10 in funds seized from Commerce Bank Acct # xxxxxx4167;
- d. \$5,232.15 in funds seized from Commerce Bank Acct # xxxxxx5976;
- e. \$63,989.45 in funds seized from Wachovia Bank Acct # xxxxxxxxxx2442.

Defendant ARNOLD:

- a. Real Property located at 205 Se Spanish Trail, Boca Raton, Florida.

If, as a result of any act or omission of the defendant, any of said property:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third person;
- c. has been placed beyond the jurisdiction of the Court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be divided without difficulty;

any and all interest defendant has in any other property (not to exceed the value of the forfeitable property) shall be forfeited to the United States.

All in violation of Title 18, United States Code, Section 982, and Rule 32.2 of the Federal Rules of Criminal Procedure.

COUNT TEN: (Title 21, United States Code, Section 846)

(United Mail Pharmacy Services/Pharmizon Conspiracy)

54. The allegations in paragraphs 1 through 31 are realleged and incorporated as if fully set forth in this paragraph.

55. Beginning at a time unknown to the grand jury but no later than January of 2006 and ending in or about March of 2008, both dates being approximate and inclusive, within the Northern District of California, and elsewhere, defendants:

Steven PAUL,
Jeffrey ENTEL, and
Dino ANTONIONI,

together with others known and unknown to the grand jury, conspired to distribute, and to possess with intent to distribute, outside the scope of professional practice and not for a

legitimate medical purpose, one or more controlled substances, which offense involved substances containing (a) phendimetrazine, a Schedule III controlled substance; (b) diazepam, a Schedule IV controlled substance; (c) phentermine, a Schedule IV controlled substance; and (d) clonazepam, a Schedule IV controlled substance, in violation of Title 21, United States Code, Section 841(a)(1), all in violation of Title 21, United States Code, Sections 846, 841(b)(1)(D) and 841(b)(2).

COUNT ELEVEN: (Title 21, United States Code, Section 846)

(United Mail Pharmacy Services/Pharmizon Attempted Possession with Intent to Distribute)

56. The allegations in paragraphs 1 through 31 and 54 through 55 are realleged and incorporated as if fully set forth in this paragraph.

57. On or about February 20, 2008, within the Northern District of California and elsewhere, defendants:

Jeffrey ENTEL, and
Dino ANTONIONI,

together with others, did knowingly and intentionally attempt to possess with intent to distribute, outside the scope of professional practice and not for a legitimate medical purpose, one or more controlled substances, which offense involved substances containing (a) phendimetrazine, a Schedule III controlled substance; (b) diazepam, a Schedule IV controlled substance; (c) phentermine, a Schedule IV controlled substance; and (d) clonazepam, a Schedule IV controlled substance, in violation of Title 21, United States Code, Sections 841(a)(1), 841(b)(1)(D) and 841(b)(2), all in violation of Title 21, United States Code, Section 846.

COUNT TWELVE: (Title 18, United States Code, Section 1956(h))

(United Mail Pharmacy Services/Pharmizon Money Laundering Conspiracy)

58. The allegations in paragraphs 1 through 31 and 54 through 57 are realleged and incorporated as if fully set forth in this paragraph.

59. Beginning at a time unknown to the grand jury but no later than January of 2006

1 and ending in or about March of 2008, both dates being approximate and inclusive, within the
 2 Northern District of California and elsewhere, defendants:

3 Steven PAUL,
 4 Jeffrey ENTEL, and
 Dino ANTONIONI,

5 together with others known and unknown to the grand jury, did knowingly and intentionally
 6 conspire to transport, transmit, and transfer monetary instruments and funds from a place in the
 7 United States to and through a place outside the United States, and to a place in the United States
 8 from and through a place outside the United States, with the intent to promote the carrying on of
 9 specified unlawful activity, to wit: unlawful distribution of controlled substances in violation of
 10 Title 21, United States Code, Sections 841(a), 841(b) and 846, which conduct was in violation of
 11 Title 18, United States Code, Section 1956(a)(2)(A), all in violation of Title 18, United States
 12 Code, Section 1956(h).

13
 14 COUNT THIRTEEN: (Title 18, United States Code, Section 1956(a)(2)(A))

15 (Pharmizon/United Mail Pharmacy Services International Money Laundering)

16 60. The allegations in paragraphs 1 through 31 and 54 through 59 are realleged and
 17 incorporated as if fully set forth in this paragraph.

18 61. On or about February 15, 2008, within the Northern District of California and
 19 elsewhere, defendants:

20 Jeffrey ENTEL, and
 21 Dino ANTONIONI,

22 did knowingly and intentionally transport, transmit, and transfer monetary instruments and funds
 23 to a place in the United States from and through a place outside the United States, with the intent
 24 to promote the carrying on of specified unlawful activity, to wit: unlawful distribution of
 25 controlled substances in violation of Title 21, United States Code, Sections 841(a), 841(b) and
 26 846, which conduct was in violation of Title 18, United States Code, Section 1956(a)(2)(A).

27 ///

28 ///

CRIMINAL FORFEITURE ALLEGATIONS AS TO COUNTS ELEVEN AND TWELVE

(Distribution Conspiracy and Attempted Distribution)

62. Upon conviction of the offenses alleged in Counts Ten and Eleven, the defendants:

Steven PAUL,
Jeffrey ENTEL, and
Dino ANTONIONI,

shall forfeit to the United States all right, title and interest in property constituting and derived from any proceeds defendant obtained, directly or indirectly, as a result of said violation, and any property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of the said violation.

If, as a result of any act or omission of the defendant, any of said property:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third person;
- c. has been placed beyond the jurisdiction of the Court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be divided without difficulty;

any and all interest defendant has in any other property (not to exceed the value of the forfeitable property) shall be forfeited to the United States.

All in violation of Title 21, United States Code, Sections 853(a)(1) and (2), (p), and Rule 32.2 of the Federal Rules of Criminal Procedure.

CRIMINAL FORFEITURE ALLEGATION AS TO COUNTS TWELVE AND THIRTEEN

(Money Laundering Conspiracy and International Money Laundering)

63. Upon conviction of the offenses alleged in Count Twelve and Thirteen, the defendants:

Steven PAUL,
Jeffrey ENTEL, and
DINO ANTONIONI,

shall forfeit to the United States all right, title and interest in any property real and personal involved in such offense, and any property traceable to such property, including but not limited to any property constituting and derived from any proceeds defendant obtained, directly or indirectly, as a result of the underlying specified unlawful activity, and any property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of the said violation.

If, as a result of any act or omission of the defendant, any of said property:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third person;
- c. has been placed beyond the jurisdiction of the Court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be divided without difficulty;

any and all interest defendant has in any other property (not to exceed the value of the forfeitable property) shall be forfeited to the United States.

All in violation of Title 18, United States Code, Section 982, and Rule 32.2 of the Federal Rules of Criminal Procedure.

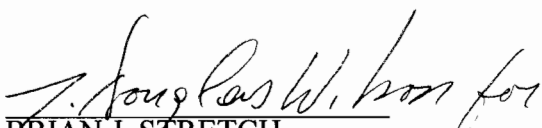
DATED:


August 31, 2010

A TRUE BILL

FOREPERSON

MELINDA HAAG
United States Attorney


BRIAN J. STRETCH
Chief, Criminal Division

(Approved as to form: )
AUSA AULT

INDICTMENT